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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,131	10/25/2001	Robert Glenn Klinefelter	63015.801US01	1922

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EXAMINER

OPSASNICK, MICHAEL N

ART UNIT	PAPER NUMBER
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2626

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08/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/057,131	Applicant(s) KLINEFELTER ET AL.	
	Examiner MICHAEL N. OPSASNICK	Art Unit 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 13-15, 18, 22-26 and 38-40 is/are pending in the application.
 4a) Of the above claim(s) 16 and 17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-26 is/are allowed.
- 6) ☒ Claim(s) 1-3, 13-15, 18 and 38-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 3,13,38-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is not clear how the means for receiving and transmitting audio and visual information dual displays and microphones would be constructed and function within a single housing. Since it is unclear to the claim scope of claim 3,13,38-40 the examiner will not attempt to interpret this claim language for art related examination purposes.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,2,14,15,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Bennett (5926787) in view of Flores (6370498).

As per claim 1, Bennett (5926787) teaches a communications services network including multiple users/viewers(Fig. 1) receiving video information (Fig. 7) and audio translated information (col. 18 lines 18-25) wherein the users require interpretations to facilitate communication (col. 15 lines 24-44; the lawyers involved in the proceedings can request the area of case law that applies) comprising means for receiving and transmitting visual information between the provider computer and the user computer (Fig. 1,7, examiner notes that the interpreted information is available for both users on the screen -- Fig. 1, 7, 8 and col. 3 line 60 – col. 4 line 10).

As per claim 1, Bennett (5926787) does not explicitly teach the transmission of audio information as well (the optional speech input is translated using a speech recognizer and transmitted as text); however, Flores (6370498) teaches providing both text and audio in differing requested languages from original text (Fig. 4). Therefore, it would have been obvious to one of ordinary skill in the art of interpretative services to enhance the system as taught by Bennett (5926787) with text and audio translation at each individual computer because it would advantageously provide for multi-lingual use as determined by the user (Flores (6370498), col. 3 lines 45-49).

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As per claim 2, the combination of Bennett (5926787) in view of Flores (6370498) teaches plurality of users and audio and visual information (Bennett (5926787), fig 1), and in combination with Flores (6370498), the audio and visual information).

As per claims 14,15,18, the combination of Bennett (5926787) in view of Flores (6370498) teaches that the devices used are not limited to pc's (col. 8 lines 18-24, and networks for remote access – col. 18 lines 5-11).

Allowable Subject Matter

5. Claims 22-26 are allowed over the prior art of record.

Response to Arguments

6. Applicant's arguments received 3/17/08 have been fully considered but are not considered persuasive. As to applicants arguments on pages 7-8 of the response, examiner disagrees and notes that 1), the arguments presented in the response received 10/28/08 are similar to the arguments received on 3/17/08 (in fact, incorporated as such in 10/28/08), and hence the incorporation of "response to arguments" in the OA dated 1/23/09, examiner included additional commentary noting that the referred to sections of the specification by applicant further showed

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how the specification as to how the device is constructed. Copied below is the examiners previous response to the 112 arguments:

“As per applicant’s arguments against the 35 U.S.C. 112 1st paragraph (on page 7 line 17- page 8 line 4), examiner respectfully disagrees and notes that the rejection pertains predominantly of having dual screen, microphones and camera into a single housing. The arguments presented are toward the availability of mixed/multiple audio signals, however, the rejection is toward the claim scope pertaining to a housing that has a display on both sides of the housing. Applicants argue that the inventive step is the “concept” of having a dual display, however, there still does not exist in the specification toward how this is necessarily accomplished. Applicants argue and give examples of one of ordinary skill in the art of display technology to create this display, and examiner argues that such a presentation shows that these claim features are not a novel, inventive step. Furthermore, the pointed to sections of the specification by the applicant further emphasizes the lack of written description as to how the device is constructed.”

Examples of adequately written descriptions of dual sided displays can be seen in Kim (6466292). As to the arguments presented on pages 8-11 of the response, examiner argues that the referred to parts of the specification, in particular, page 41, lines 7-13 stating:

“In another preferred embodiment, a plurality of user computers can be contained within a single housing system. For instance, with reference to Figures 3 and 4, two user computers can be contained within a single housing 24 having a first side 26 and a second side 28, wherein the means for receiving and transmitting the audio and visual information for the first user computer resides on the first side of the housing 26 and the means for receiving and transmitting the audio and visual information for the second user computer resides on the second side of the housing 28.”

The description, at best, conveys a generalized layout of the displays, but does not adequately described how to construct the dual display device. See MPEP 2163:

The analysis of whether the specification complies with the written description requirement calls for the examiner to compare the scope of the claim with the scope of the description to determine whether applicant has demonstrated possession of the claimed invention. Such a review is conducted from the standpoint of one of skill in the art at the time the application was filed (see, e.g., Wang Labs. v. Toshiba Corp., 993 F.2d 858, 865, 26 USPQ2d 1767, 1774 (Fed. Cir. 1993)) and should include a determination of the field of the invention and the level of skill and knowledge in the art.

Again, as an example, Kim (6466292) adequately discloses the construction of a dual display device, including the liquid crystal layers, electrodes, controller, memory layout, and the like. Furthermore, Mahieux (5848170) adequately discloses the construction of coplanar microphones on a display. Clearly, from this evidence of the field of invention and level of ordinary skill and knowledge in the art, applicants specification does not adequately describe the detail in how to construct the claim limitations and therefore has not met the statutory bar of 35 U.S.C. 112 1st paragraph. (addressing applicants concerns on pages 11-13 of the arguments).

As to applicants arguments from the bottom of page 17 to middle of page 19, again, applicant alleges that the response in the previous office action does not address the claim limitation "human interpreter", and that the previous response to arguments is a virtual copy of the previous response, examiner disagrees and notes the following additional comments that were interlaced into the argument response:

(furthermore, Bennet suggests a human operator - as the user interpretation); and Examiner also notes that further claim scope limitations further defining the operator feature may overcome the Bennett reference, however, examiner suggests that applicant look at the Kahn reference (disclosed in previous office action notice of references cited) which disclosed human operator interpretation.

The previous response to arguments is complete in explaining, multiple times, where the portions of Bennett apply to the current claim scope (repeated again as follows):

Examiner further argues that the Bennett et al reference teaches both interpretative and translational services (the disclosed CAT – computer aided transcription), along with language translation (abstract). Furthermore, Bennett et al teaches an interpretative transcription service that is an improvement over traditional interpretative services (col. 2 line 44 - col. 3 line 5). In other words, Bennett teaches both an improved automated transcription/interpretative service, along with more traditional interpretative services; wherein both disclosures meet the current claim scope (furthermore, Bennet suggests a human operator – as the user interpretation) . As to applicant’s arguments toward “the complex process of interpretation and translation of human communications that are effectuated through a combination of audio and visual cues”,

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examiner argues that 1) Bennett discloses older systems that use such interpretations – col. 2 line 44 – col. 3 line 5; 2) Bennett discloses an improved interpretative service to counteract miscommunication/misunderstanding between such translations by automating, to a degree, the amount of interpretation – col. 5 lines 1-20 – the automated portion of Bennett overcomes possible misinterpretation of the court stenographer (interpreter) by offering visual feedback – col. 5 lines 30-45); 3) Bennett discloses “translation” – col. 13 lines 30 – col. 14 line 27; as well as interpretation – the CAT offers an interpretation of the input by the court stenographer – col. 6 lines 1-25). As per the arguments on page 10 of the response, Bennett offers users an interpretation, especially when a different language is required (col. 13 and 14). As per applicant’s arguments on the bottom of page 10, examiner reiterates the features of Bennett wherein the output is an interpretation/translation of input by the court stenographer (which is an interpretation itself) and furthermore, applicant is arguing features (word meaning explanation, translation, personal understanding, etc.) that are not claimed. In the amended claims, the human interpreter aspect of claim 1 has no patentable weight since it is not reinforced in the body of the claim. As per applicant’s arguments against a plurality of interpreters, examiner argues that Bennett (and Bennett in view of Flores) provides multiple interpreters/translators based upon the desired language output. Bennett also does not limit the type of device containing the software for voice input (col. 18 lines 18-24), as well as applicant’s own disclosure of prior art (as an example, Galludet’s use of TAP on cellular devices). As per applicants arguments against claim 25 (on the bottom of page 12 of the response), examiner disagrees and points to the same Fig. 5b, video 1 and video 2, wherein Flores explicitly teaches in the accompanying col. 7 lines 13-41, wherein the image of the interpreter is provided with the accompanying text. Examiner also notes that further claim scope limitations further defining the operator feature may overcome the Bennett reference, however, examiner suggests that applicant look at the Kahn reference (disclosed in previous office action notice of references cited) which disclosed human operator interpretation.

In other words, in the Bennett system, the court system using the court stenographer as an input is the interpreter that applies to the current claim scope. As advised in the previous response to arguments, further definition of the interpreter role would overcome the prior art rejection, however, advised again, to note the Kahn reference previously listed as applicable prior art. As to the use of portable devices, the referred to section (col. 18, lines 5-11) pertains to Bennett, teaching the use of portable devices (as portable note pad type computer).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (571)272-7623, who is available Tuesday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Richemond Dorvil, can be reached at (571)272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael N. Opsasnick/
Primary Examiner, Art Unit 2626
8/1/09